No reliance should have been placed on Tan Yong Kwang's record P14. His evidence was that he based his record of what the actual penetration lengths for each pile was by he himself usually taking the measurements at the site of the length of pile above ground and he would also 'speak to the workers as to the penetration lengths' and he would then prepare the entries for each day. He admitted that he was not at the site all the time. He also admitted that P14 had errors and mistakes. He admitted that there were errors in the calculation of penetration and paylengths in a number of cases.

Tan said that the appellant told him to record the measurements of the actual piling on to P14 and when the appellant handed P14 to him he was told that the company would pay the correct sum of money to Wee Sum based on his records in P14. In cross-examination, he agreed that in respect of an invoice of Wee Sum, dated 11 September 1984, for $13,968.84 (exh P33), Wee Sum was paid not according to his figures but Pannir's.

Kang Gim Chye, a partner in Wee Sum Engineering Company, said in evidence that in respect of the invoice exh P33 and another invoice of his firm, exh P34, the company paid his firm according to the lengths that the company claimed from HDB.

According to Tan, he was in sole charge of both the contract sites at Block 513 and Block 541 until the evening of 13 December 1984. But the daily piling records exhs D4 and D5 clearly show that from 29 November 1984, the daily piling records were maintained by another foreman Hooi Ah Tee. When confronted with this evidence Tan agreed that he did not maintain the records from 28 November 1984 to 14 December 1984. He explained:

> At that time I did not maintain the records in this form and waited until end of December to copy from a note book into the daily record form. The note book is similar to the one in P14. This is because of a lot of work as I had to be in charge of two sites. When I left I handed the note book to Ng Jwee Seng.

When asked why he did not hand over P14 when he left the company on 14 December 1984, he said that 'they did not ask for it and I did not think it important'.

The trial judge in his grounds of decision said:

> I gave the most careful consideration to the evidence adduced by the prosecution, particularly because it was pivoted on the evidence of the two accomplices Pannir (PW8) and Tan Yong Kwang (PW9). I treated the evidence of the accomplices with great caution as is required by the Evidence Act, s 116, illus (b); s 135. There were minor inconsistencies in their evidence but neither witness could be faulted on any of the material aspects of his testimony despite being subjected to a gruelling cross-examination. I had no reason to disbelief any of the prosecution witnesses and their evidence was supported by the documentary exhibits that were tendered by the prosecution.

The trial judge relied entirely on the testimony of the two accomplices. He had wrongly admitted and relied on the evidence of the appellant's allegedly past criminal act. He did not pay proper and careful consideration to the evidence of the accomplices. The many material inconsistencies, self-contradictions and discrepancies were serious and should cast grave doubts on the credibility of Pannir and Tan Yong Kwang. The trial judge failed to realize that one accomplice cannot corroborate another. The documentary exhibits do not support the accomplices' evidence.

I am, therefore, of the view that there is justification for interference with the decision of the trial judge.

The appeal is allowed, the convictions and sentences are set aside.

Appeal allowed.

Solicitors: *Leo Fernando.*

Reported by *Terence Tan Bian Chye*

Sim Ah Ngoh v Public Prosecutor

HIGH COURT (SINGAPORE) – MAGISTRATE APPEAL NO 387/87
CHAO HICK TIN JC
10 MARCH 1989

Criminal Law – Armed robbery – Common intention to commit such – Extent to which person not at scene of crime is liable – Penal Code (Cap 224, 1985 Ed), ss 392 & 397

Evidence – Burden of proof at end of prosecution's case – Defence's failure to allege no case to answer – Accomplices' evidence

Criminal Procedure – No case to answer – Setting aside of subordinate court judgment – Appeal court's powers to set aside trial judgment – Criminal Procedure Code (Cap 68, 1985 Ed), s 261

The appellant was charged that she had with L and O in furtherance of their common intention committed armed robbery, of her husband and his mistress. L and O were the prosecution witnesses. She was convicted by the trial judge and sentenced to three years' imprisonment. She appealed against both her conviction and the sentence. The fact that a robbery occurred was not in dispute. The only issue was the role of the appellant in it.

Held, allowing the appeal:

(1) To warrant the appellant's conviction, the following had to be proved: that the appellant was at the scene of the crime with L and O, the common intention of the three of them was to commit robbery, the appellant was armed with two knives (sic), and the items mentioned in the charge were taken from the victim.

(2) On the evidence, two of the ingredients were not proved. The appellant was not at the scene of the crime, which was an apartment. Rather, she was downstairs in the car park at the time.

(3) In addition, she was not armed with two knives, and it was L and O who were carrying the knives.

(4) The conviction could not therefore stand and was wrong in law.

(5) Although defence counsel had not at the trial argued that there was no case to answer at the end of the prosecution case, this omission could not relieve the prosecution from its burden of proof. The court was not precluded from quashing a conviction if the evidence of the prosecution, even if believed, would not prove the charge.

(6) Case law has established that an appellate court should be slow to interfere with a finding of fact by a lower court as an appellate court does not have the advantage of seeing and hearing the witnesses and therefore of assessing their credibility.

(7) What was basically in issue here was a question of fact. The appellant said that she had merely asked L to trail her husband and to get pictures of him and his mistress. L claimed that the appellant had wanted to teach her husband a lesson by robbing him.

(8) Although L, as an accomplice, was certainly a competent witness, his evidence should be assessed with caution.

(9) The trial judge had failed, notwithstanding that he said he had assessed the evidence of L and O with caution, to closely scrutinize and examine their evidence bearing in mind that they were accomplices. If he had critically examined the evidence, he would have noticed the lies in the evidence of L and the incredibility of some of the answers and if he had placed the version of the events given by the appellant alongside that of the two accomplices, he would not have thought that the defence of the appellant was implausible. Her evidence was every bit reasonable and credible.

(10) The evidence of L, the main prosecution witness, was totally unreliable and the conviction of the appellant on the charge must be quashed and the sentence set aside.

Cases referred to

1 *Barendra Kumar Ghosh* v *Emperor* AIR 1925 PC 1 (distd)
2 *PP* v *Wan Razali Kassim* [1970] 2 MLJ 79 (folld)

Legislation referred to

Criminal Procedure Code (Cap 68, 1985 Ed) s 261
Evidence Act (Cap,97, 1985 Ed) ss 116 illus (b), 135
Penal Code (Cap 224, 1985 Ed) ss 34, 109, 392, 397

Lee Seiu Kin for the Public Prosecutor.
Nathan Isaac (assisted by *Chong Eng Chong*) for the appellant.

Cur Adv Vult

Chao Hick Tin JC: The appellant was charged and convicted on 13 November 1987 before a district court on the following charge:

> You, Sim Ah Ngoh, F/43 years, NRIC No 2145572/I are charged that you, on or about 18 February 1987, at about 12.30 am at Block 8 Pacific Mansion #02-12, River Valley Road, Singapore, together with Lim Ting Khat and Ong Seng Kim in furtherance of the common intention of you all, committed robbery of:
>
> a a Rolex wrist watch valued $2,500
> b cash $1,000
> c NRIC 1082651-I and Tat Lee gold card in the name of Goh Joo Whatt (total vld: $3,500)
>
> in the possession of one, Goh Joo Whatt, m/53 and at the time of committing the said robbery, you were armed with deadly weapons, to wit, 2 knives, and you have thereby committed an offence punishable under ss 392 and 397 read with s 34 of the Penal Code, Chapter 224.

She was sentenced by the learned district judge to a term of imprisonment of three years. She is now appealing against both conviction and sentence.

In essence, counsel for the appellant raised two main grounds of appeal:

(i) The conviction is wrong in law: the evidence of the prosecution, even if accepted in toto, does not prove the charge.
(ii) The learned district judge failed to scrutinize carefully the evidence of the two accomplices, upon whose evidence the conviction rests; and the conviction is against the weight of the evidence and is obviously wrong.

Prosecution's case

The evidence led by the prosecution showed that the appellant, who is married to the victim Goh Joo Whatt, learned sometime in early 1987 that her husband, who had a mistress, intended to seek a divorce from her. She had refused to give him a divorce. They had been living apart since 1984. In order to hit back at her husband, she asked two persons, one Lim Ting Khai ('Lim') and one Ong Seng Kim ('Ong'), to rob and to teach her husband and his mistress a lesson.

On 18 February 1987, at about 9.30 pm, the appellant and the two accomplices were waiting at the carpark of the Pacific Mansion building for the return of their victim. At about 12.30 am, the victim returned and went up to his apartment. The two accomplices followed the victim and as soon as he unlocked the apartment door, they rushed at him and pushed him into the apartment. They used glue to cover his eyes and tied his hands and legs with cloth strips. Also present in the apartment was one Wong Ng Mui (PW2), who was also tied up by the two accomplices and her eyes were glued. Lim and Ong were carrying knives. The victim testified that Wong Ng Mui was his live-in servant. But in cross-examination, Wong Ng Mui eventually admitted that she was the victim's mistress.

The fact that a robbery occurred at the early hours of 18/19 February 1987 as just described was not in dispute. The dispute related to the role of the appellant in it. According to Lim, who was formerly an employee

of the appellant for six months, the latter wanted Lim to teach an enemy of the appellant (and the wife) a lesson by robbing and beating them. She even bought a knife for him for that purpose. At the request of the appellant, Lim roped in Ong to help out in the task.

On that fateful evening at about 7.30 pm, Lim, as pre-arranged, picked up the appellant at a petrol kiosk. She gave him some super glue and some cloth strips. Together they went to fetch Ong. All three arrived at Pacific Mansion at about 10.00 pm. As they did not see the car of the victim at the carpark, they waited until he returned well past midnight. Lim and Ong followed the victim up the apartment and the subsequent events were as described above. Throughout the robbery, it would appear that the appellant remained downstairs at the car park. She was waiting for Lim to call her through the pager to go up to the apartment. Lim and Ong were supposed to tie up and blindfold the victim first. At one point in cross-examination, Lim said the appellant was downstairs at the staircase. Lim said he gave the appellant $200 as her share of the proceeds of the robbery.

Ong, who was offered by the prosecution for cross-examination, said that Lim told him that the appellant wanted them to teach the victim a lesson. Ong also said that after they had tied up the victim, they were then to page for the appellant.

Defence

The appellant in her defence admitted that from 1984 her relationship with the victim became strained because of him having a mistress. She refused him a divorce when he requested for it in late 1986 or early 1987. In January 1987 she engaged a private investigator to take photographs of her husband and his mistress. The private investigator failed in his assignment. The appellant paid the private investigator $300. The receipt for this payment was tendered in evidence. The appellant wanted a photograph as proof to her mother-in-law who did not believe that her son kept a mistress outside. She also intended to use the photograph to sue him, which she explained to mean 'to keep evidence so that he cannot divorce'.

The appellant said Lim visited her during the 1987 Chinese New Year. When asked by Lim where her husband was, she told Lim that her husband was keeping a mistress. He offered to help. She loaned him $2,000 to buy a car for the purpose of trailing her husband. On 18 February 1987, Lim rang up the appellant to say that he would bring her to her husband. She drove to the appointed petrol kiosk at Bukit Timah at between 8 and 9 pm where she left her car. Lim was already there. She went over to his car. In her hurry she left her handbag and her camera in her car. Lim thereafter went to fetch Ong at Bedok before proceeding to Pacific Mansion. On arrival, they did not find the appellant's husband's car there. On realizing that she did not have her camera, she wanted to return home but was persuaded by him to wait nevertheless. When her husband eventually returned she wanted to go up to him but Lim suggested that she should wait while he and Ong would follow him to have a look and then they would page for her through her pager. About 15 minutes later, both Lim and Ong came back to the car where the appellant was and Lim told the appellant that he had a peep at her husband who saw Lim. They, therefore, ran down. They then drove off from Pacific Mansion. On the way, Ong alighted first, followed by the appellant who alighted at Geylang. Lim gave the appellant $18 for taxi fare as she had no money having left her handbag in her car. Lim did not want to send the appellant home as it was late.

The appellant denied asking Lim and Ong to teach her husband a lesson or to rob him. She only wanted photographs as evidence. She said she did not know Ong was coming along on that day though she did not object to Ong's presence when Lim drove to fetch him. She also did not know that Lim and Ong were carrying knives. She denied buying a knife for Lim or giving him glue and cloth strips for the robbery. She admitted having some days earlier given Lim the glue to repair his car air-conditioner.

Is the conviction wrong in law?

To warrant a conviction under the charge, the following must be proved:

(i) the appellant was with Lim and Ong at #02-12, Block 8 Pacific Mansion, River Valley Road;
(ii) the common intention of the three was to commit robbery;
(iii) the appellant was armed with two knives;
(iv) the items in question were taken from the possession of the victim, Goh Joo Whatt.

It seems clear to me that, on the evidence, two of the ingredients are not proved. One is that the appellant was at the apartment, #02-12. The evidence showed that she was downstairs at the car park. The circumstances in this case are very different from those in *Barendra Kumar Ghosh* v *Emperor*.[1] The other ingredient not proved is that the appellant was carrying two knives. The evidence of the prosecution witnesses, PW1 and PW2, showed that the knives were carried by Lim and Ong. The appellant was not present in the apartment at all. Neither was she just outside the door of the apartment. The conviction therefore cannot stand and is wrong in law.

I have noted that counsel for the appellant, at the hearing below, did not submit that there was no case to answer at the end of the prosecution's case. Nor did he submit on this point at the end of the trial. But that

should not preclude this court from quashing a conviction if the evidence of the prosecution, even if believed, would not prove the charge. An omission on the part of the defence counsel cannot relieve the prosecution of its burden of proof. Of course it is open to this court, and I have been urged by the learned DPP, to substitute the charge with one of abetment of armed robbery under s 109 of the Penal Code. But for the reasons which I will now proceed to give that course does not arise.

Review of the evidence

Before proceeding to examine the evidence, first let me set out the law governing the review of evidence by an appellate court. Section 261 of the Criminal Procedure Code provides that no judgment of a subordinate court shall be reversed or set aside unless it is shown to the satisfaction of the High Court that the judgment was either wrong in law or against the weight of the evidence. Case law has clearly established that an appellate court should be slow to interfere with the finding of fact by a lower court as an appellate court does not have the advantage of seeing and hearing the witnesses and therefore of assessing their credibility: see *PP* v *Wan Razali Kassim*.[2]

What was basically in issue in this case was no doubt a question of fact. The appellant said that she merely asked Lim to help her trail her husband and to get pictures taken of the husband and his mistress. Lim's evidence was that she wanted him to teach an enemy of hers (and his wife) a lesson and to rob them. Under s 135 of the Evidence Act an accomplice is certainly a competent witness. But it is again well established by case law that a court should assess the evidence of an accomplice with caution, which the learned district judge said he did. Indeed, s 116, illus (b) of the Evidence Act is relevant here and it provides that 'the court may presume that an accomplice is unworthy of credit and his evidence needs to be treated with caution.'

Counsel for the appellant referred to the following matters in the evidence to show that Lim was lying or that there were grave doubts in what he said:

(i) The three knives: the evidence of Lim was that they brought three knives (exhs P3, P4 and P6) to Pacific Mansion. Lim and Ong each carried one when they followed the victim up the apartment. The third knife (P3) was with the appellant under her dress. PW1, the victim, said that 'each of the men held a knife. There were two or three knives.' PW2 (Wong Ng Mui) said that (p 15 of the record) P3 and P4 were held by the same man. PW2 did not know where the third knife came from. PW1 and PW2's evidence seemed to suggest that all three knives were used by Lim and Ong. Detective Rahbir Singh said that two knives (P3 and P4) were recovered from the house of Ong and the third knife (P6) was found in the air-conditioning compartment of Lim's car. In any event what is most significant is that PW2 said that the knife (P3) was held by one of the two men (p 15 of the record); yet Lim said that P3 was with the appellant downstairs.

(ii) Phone calls after robbery: after the robbery, Lim said he made four phone calls to the victim to extort money from the victim. Lim said that each time he rang up the victim the appellant was with him. PW 1, the victim, said that one day he went back to his home at Toh Tuck Place to see the children. The appellant was also there. While he was there, he received a phone call extorting money. It seems to me clear that Lim was lying when he said that on each occasion when he made the four calls the appellant was present with him. The learned DPP suggested that the call received by PW1 at Toh Tuck Place could perhaps have been made by another person. This is pure speculation. The prosecuting officer at the trial did not so suggest. It would be too much of a coincidence.

(iii) In answer to cross-examination as to which house Lim made the four phone calls, he said, 'the place of robbery' (p 43 of the record). This is again contrary to the evidence of PW1, the victim.

(iv) Lim said that after he and Ong came down from the apartment, the appellant 'wanted to go up but I (Lim) told her not to as there were a lot of people there. I did not ask why she wanted to go up' (p 31 of the record). There was no evidence of 'a lot of people there'. PW1 and PW2 did not say that there were other people around when the robbery took place. Lim was lying again.

(v) In cross-examination, Lim said again (at p 39 of the record) 'when we entered the flat there were many people'. But Lim did not say what he and Ong did to those 'other people'. Neither did he say what they did. Surely if there were those other people at the time of robbery, something must have been done to them or by them?

There are also other aspects in the evidence which I am afraid the learned district judge did not quite closely examine. Some of these are:

(i) Lim said he did not beat the victim up because he found that the victim was not such a bad person (pp 29 and 30 of the record). However, in cross-examination, when the victim was asked if any of the two men talked to him, he answered 'one of them only asked me to keep quiet. He said they had come to rob me'. So on what basis did Lim form the opinion that the victim was not such a bad person? Lim said he told the victim that the latter had 'cheated people a lot of money' which the victim denied. As I have just pointed out, the victim's evidence did not corroborate that. It is pertinent to note that Ong,

on being cross-examined, said that during the robbery Lim did not question the victim (p 47 of the record). Also in answer to cross-examination, Lim said the victim appeared to be a simple person. It baffles me how he came to that conclusion bearing in mind that there was hardly any conversation between the victim and him, and the victim, in his evidence, said the apartment was dark?

(ii) According to Lim the arrangement was that as soon as they were in the apartment they were to call the appellant through her pager. Lim asked Wong Ng Mui (PW2) for the phone and this was what Lim said in evidence (at p 30 of the record):

> I asked for the telephone. She asked me to look for it. However, I could not find the telephone. So I did not call her.

If Lim had seriously wanted to use the phone to page for the appellant, I cannot imagine him not making Wong Ng Mui (PW2) lead him to it bearing in mind that he was armed with a knife. On Lim's own evidence (p 29 of the record) 'she was frightened'). This answer is quite incredible, which, in my view, only goes to show that he never intended to make a call. The learned district judge seemed to accept this excuse without question.

(iii) Lim said that after the appellant alighted from the car at Geylang he gave her about $20 for taxi fare. (The appellant said $18; however, the amount is quite immaterial.) The learned district judge did not seem to place any significance on this. But it certainly goes to substantiate her explanation that in haste she forgot and left her handbag in her car at the petrol kiosk. And if she could have forgotten her handbag, is it so incredible that she could also have forgotten her camera? Of course I note that at p 42 of the record, Lim said that the appellant did not carry her handbag because 'she was afraid she would drop it during the incident'. Lim did not state the basis upon which he made that assertion; or was it just a guess. Even taking Lim's point, if the appellant was, in fact, afraid that she might drop her handbag during the incident, why would she bring it at all and leave it in the car? She could very well have left it at home. Of course, such arguments could go on ad infinitum. I am not here to speculate. The crucial question is: is the appellant's explanation that she had forgotten her handbag in the circumstances described so implausible? I would think not.

(iv) Lim said the appellant's one-third share of the $600 loot was given to the appellant that same afternoon after the robbery. On Lim's own evidence that the appellant's aim in conceiving this robbery was to teach the victim a lesson and that Lim could take all the money he wanted, would it be likely that the appellant would accept a paltry sum of $200? The evidence becomes all the more preposterous when Lim said that 'a few days later, the accused asked me to call that man (the victim). She said it was not worth the trouble as she did not get much money'. (p 32 of the record).

(v) The victim stated that the robbers took $1,000 cash from him. Yet Lim said he only took $600. Here again is a discrepancy. It should be noted that the charge states a sum of $1,000.

(vi) Lim was specifically asked to beat up the victim yet he did not do so. He explained that during that very short time when the robbery was being committed, he realised that the victim was not as bad as was made out to be. Viewing it in the most favourable light, that sounds very strange bearing in mind that Lim hardly spoke to the victim and, on his evidence, he was supposed to rob and to beat the victim.

(vii) Lim said that when he was at the flat committing the robbery the appellant was at the staircase downstairs. How could he have known that? He followed the victim up the staircase. The appellant was supposed to wait for their message through the pager. At the time when the victim was walking up, the appellant could not have been near the staircase; otherwise the husband (the victim) would have seen her. Having followed the victim up, how did Lim come to know that in the meantime the appellant had walked up to the vicinity of the staircase on the groundfloor?

Having regard to the foregoing, I regrettably have to differ from the views of the learned district judge that Lim and Ong were witnesses of truth. I am afraid the district judge had failed, notwithstanding that he said that he had assessed the evidence of Lim and Ong with caution, to closely scrutinize and examine their evidence bearing in mind they were accomplices. If he had critically examined the evidence he would have noticed the lies in the evidence of Lim and the incredibility of some of the answers and if he had placed the version of events given by the appellant alongside that of the two accomplices, he would not have thought that the defence of the appellant was implausible. On the contrary, having examined the evidence carefully, I find her defence to be every bit reasonable and credible.

Let me now deal with some of the main reasons given by the learned district judge in his grounds of decision. The district judge rejected the appellant's explanation that she forgot and left the camera in the car. He asked how could she have forgotten, if she had wanted to take pictures of her husband and his mistress. He placed no significance on the fact that the appellant had also forgotten and left her handbag in the car. The fact that Lim gave about $20 to the appellant to take a

taxi home was not in dispute. If she could have forgotten her handbag is it so unbelievable that she could also have forgotten her camera? I do not think the adverse inference drawn by the district judge was justified.

The district judge said that by allowing Ong to come along with them that showed she was privy to the robbery. Again, I do not consider that fact as necessarily indicating guilt. I do not see anything so improbable or unreasonable in the appellant's explanation that it was Lim who wanted Ong to come. One must bear in mind that in so far as the appellant was concerned, Lim was then helping her in regard to her husband and his mistress. Is it so unworthy of belief that the appellant could have let Lim have his way?

Again the district judge thought that the appellant's conduct, after hearing from her husband that he was robbed, was unreasonable because she readily accepted the answer of Lim that he was not involved in that robbery. The district judge felt that she should have chided Lim. But on what basis? Her reaction was certainly not outrageous. I would even say natural to some extent. A report had already been made to the police by the victim. Eventually the truth would be uncovered by the police. Was entertaining a lingering doubt at that point a sufficient basis to chide Lim for having committed robbery when he had denied being involved?

On the other hand, Lim on his own evidence said, 'I robbed the man because we were greedy' and 'Ong was in need of money'. Ong also said, on being cross-examined, that around January-February 1987, Lim was unemployed. In so far as the appellant was concerned she was clearly not in any financial difficulty. In fact she had been running the factory of her husband, the victim, for 20 years. Financially she was very comfortable. She drew money from the company.

I think it is important to bear in mind the reasons which the appellant said Lim gave to her to prevent her from going up the apartment. Lim was reported to have said that when he peered into the apartment the victim saw him and thus he ran down. Why was Lim so concerned that the victim saw him? After all, Lim was not known to the victim. Why did Lim discourage the appellant from going up? Even on Lim's own evidence he said he did discourage her from going up because 'there were a lot of people there' (p 31 of the record). This is, as mentioned above, a clear lie on Lim's part. Counsel for the appellant submitted to me that Lim discouraged the appellant from going up to the apartment because Lim did not want the appellant to go up and see what they had actually done to the victim. In my view this is a reasonable inference to draw. In fact this point is entirely consistent with the defence's case.

While the learned district judge implicitly recognized that robbery was an unusual way for an aggrieved wife to punish a wayward husband, he did not think that this was a relevant point for consideration. With respect, I think the district judge has put it in terms too absolute. The point was surely relevant in the overall assessment whether the defence version could or could not be believed.

The district judge also gave no weight to the fact that the appellant engaged a private investigator to take pictures of her husband and his mistress. It was only when the private investigator failed to produce results that she, on Lim's offer to help, agreed to accept his assistance.

Conclusion

Having carefully reviewed and considered the evidence as a whole, I have no hesitation in coming to the conclusion that the evidence of Lim, who was the main prosecution witness against the appellant, was totally unreliable and the conviction of the appellant on the charge must be quashed and the sentence set aside. As I have decided above, the conviction should also be quashed as being wrong in law.

I am inclined to think that this case smacks of a frame-up, though I am unable to place my finger on the precise cause. Counsel for the appellant suggested that perhaps Lim and Ong blamed her for what happened because if the appellant had not asked them to trail her husband and to help take pictures, they would not have hatched the plot to rob the husband and landed themselves in so much trouble. That is a possibility. In my judgment, Lim and Ong pretended to assist the appellant when, in fact, they went on a plot of their own to rob the victim because they were then in dire financial straits. They anticipated that they might have to do a quick get-away after the robbery, and thus even asked the appellant to take care of the car and drive it (p 66 of the record). I ought to mention that I consider it quite inconsequential, in the overall context, that the appellant had made an error regarding the dressing of the two accomplices.

Accordingly, the appeal is allowed. The conviction against the appellant is quashed and the sentence set aside.

Appeal allowed.

Solicitors: *Nathan Isaac & Co.*

Reported by *Terence Tan Bian Chye*